

**GOVERNMENT OF ANDHRA PRADESH
ABSTRACT**

Establishment – Single Unit – Restoration of lien of 4 employees of Commissioner of Commercial Taxes – Sri S.Giridhar, Sri Mahaboob Basha, Sri S.A.Rasheed and Sri P.Srinivasa Rao, Senior Assistants in Commissioner of Commercial Taxes – Repatriation in A.P.Secretariat - Orders – Issued.

GENERAL ADMINISTRATION (SU.III) DEPARTMENT

G.O.Ms.No. 192

Dated: 28.05.2014
Read the following:

1. Govt.Memo.No.69440/CT.I(2)/93-3, dt. 4.3.1994
2. O.O.Rt.No.3419, GA(SU.III) Dept. dt.17.9.1998.
3. U.O.Note No.226/SU.III/97/2, dt.24.12.1997.
4. Govt.Memo.No.27573/SU.III/99-1, dt.21.5.1999.
5. Govt.Memo.No.20814/SU.III/A1/2007-13, dt.11.1.2011.
6. G.O.Ms.No.144, Finance (FR.I) Dept. dt.19.5.2009.
7. Orders of Hon'ble Tribunal dt.4.12.2013 in its common judgment in O.A.No.2668/2011, OA.No.1473/2011 in OANo.1473/2011 inter-alia Order in OA Nos.2668/2011, OA No.1473/2011.
8. Orders of Hon'ble Tribunal dt.4.12.2013 in O.A.No.624/2013.

ORDER:

1. Sri S.Giridhar, Sri Sk.Mahaboob Basha, Sri S.A.Rasheed and Sri P.Srinivasa Rao had been appointed as TCAs on various dates as stated in the table below. Sri S.Giridhar was appointed on compassionate grounds, Sri Mahaboob Basha, Sri S.A.Rasheed and Sri P.Srinivasa Rao were appointed through APPSC. Their other details are as follows:

Sl.No	Name of the individual	Date of appointment order as TCA in Secretariat departments	Date of joining as TCA in Secretariat departments	Date of declaration of probation in Secretariat Departments. Ref No& date	Sl.No.in the seniority list of TCAs finalized in U.O.Note No.226/SU.III/97-2, GA(SU.III)dept., dt.24.12.1997	Date of transfer in CT department as Typist/ Jr.Asst.
1	S.Giridhar	11.9.1989	11.9.1989	11.9.1991, O.O.Ms.No.28, PR&RD (OP.I)Dept., dt.3.4.1993	71	13.6.1994
2	Sk.Mahaboob Basha	13.11.1990	23.11.1990	6.2.1993, O.O.Ms.No.8, EG&YS(OP)dept., dt.9.3.1993	91	11.8.1994
3	P.Srinivasa Rao	13.11.1990	27.12.1990	3.2.1993 O.O.Ms.No.72, G.A(OP.IV)dept., dt.29.4.1993	92	18.7.1994
4	S.A.Rasheed	13.11.1990	23.11.1990	18.12.1992 O.O.Ms.No.72, G.A(OP.IV)dept., dt.29.4.1993	97	23.9.1994

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2. In ref.1st cited above, Government had issued orders for filling up of the vacant posts of Junior Assistants, Typists etc., in CT department, in which permission was granted to Commissioner(CT) to appoint candidates by transfer from other departments also. It was also stated in this Memo that, if suitable candidates are not available from the list of surplus candidates furnished by G.A(IC)Dept., then the provision of G.O.Ms.No.100, Revenue(CT.IV) Dept., dt.2.2.1989 stands relaxed for such appointments in CT department.

3. In pursuance to the above Memo, the above stated 4 TCAs applied for the post of Junior Assistant in CT department on various dates like 9.4.1994 in case of Sri S.A.Rasheed, 7.4.1994 in case of Sri P.Srinivasa Rao etc. These two applications were considered by the government and in Memo No.531/OP.IV/A2/94-2, G.A(OP.IV) Dept., dt.22.4.1994, was forwarded to Secretary to Commissioner(CT) to consider their cases, for **appointment by transfer in CT department**, against clear vacancies, subject to the condition that they should take last rank next to the last regular candidate in the category to which transfer is sought by them. It is noted that they had sought for the appointment as Junior Assistant. In case of Sri Sk.Mahaboob Basha, his application for appointment by transfer, as Junior Assistant/Typist, dt.16.4.1994 was also forwarded by Government in Memo No.903/OP/94-1, Minorities Welfare(OP)Dept., dt.28.7.94, to Commissioner(CT). In case of Sri S.Giridhar, his application dt.15.4.94 for appointment by transfer as Junior Assistant /Typist, etc., was also forwarded to Commissioner(CT) in Memo No.22946/OP.I/94-1, PR&RD Dept, dt.25.4.1994. It is thus clear, that the request of all the above mentioned 4 employees was forwarded by the Government for appointment by transfer in CT department against the post of Junior Assistant/Typist.

4. Sri S.Giridhar was appointed as Typist by transfer in reference proceeding of Commissioner(CT) vide File No.C1/359/94, dt.2.6.1994, Sri P.Srinivasa Rao was appointed by transfer as Junior Assistant in proceeding of Commissioner(CT) in reference C1/1024/94, dt.14.7.94, Sri Sk.Mahaboob Basha was appointed by transfer as Junior Assistant in proceedings of Commissioner(CT), in reference C1/1024/94, dt.30.7.94 and Sri S.A.Rasheed was appointed by transfer as Junior Assistant in proceedings of Commissioner(CT), in reference C1/1024/94, dt.15.9.94.

5. Later, a Memo was issued by the Government bearing No.77799/SU.II/97-5, G.A(SU.II)Dept., dt.21.11.1997, through which all these 4 employees were expected send the reply to Commissioner(CT), as to why their lien should not be terminated, in view of completion of more than 3 years of time, since they were relieved from A.P. Secretariat. This Memo also states that, if no reply was received within a month, their lien would be deemed to have been terminated. In reply to this Memo dt.21.11.1997, all these 4 employees submitted their willingness to come back to Secretariat and take promotion as ASO. The dates on which such reply was sent by them are as follows:

1. Sri S.Giridhar , dt.4.12.1997
2. Sri Sk.Mahaboob Basha, dt.5.12.1997
3. Sri S.A.Rasheed, dt.6.12.1997
4. Sri P.Srinivasa Rao, dt.9.12.1997

6. However Government in O.O.Rt.No.3419, G.A(SU.III)Dept., dt.17.9.1998 rejected the request of these 4 employees and ordered for termination for their lien as per FR-14 in the cadre of TCA and also ordered to delete their names from the final seniority list in the U.O.Note No.226/SU.III/1997-2, dt.24.12.1997.

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7. Aggrieved by the above order, all these 4 employees approached APAT by filing O.A.No.2668/2011 and O.A.No.2473/2011. Both the O.As were clubbed together along with another O.A.No.624/2013 and was disposed-off by APAT in its order dt.4.12.2013. APAT made the following order:

*“84. In view of the above facts and circumstances O.A.No.2668/2011 and O.A.No.2473/2011 are allowed and the impugned proceedings issued in the Office Order O.O.Rt.3419, G.A(SU-III) Department, dated 17-9-1998, Memo No.27573/SU-III/99-1, G.A(SU-III)department, dated 21-5-1999 and Memo No.2081/SU-III/A1/2007-13, G.A(SU-III) Department, dated 11.1.2011, are set aside. The applicants continue to have lien in the departments of Andhra Pradesh Secretariat. **The respondents are directed to repatriate the applicants to their parent Departments in the Secretariat and after placing them at the appropriate places in the seniority Lists in their parent Department as per their seniority, consider cases for promotion to the higher posts on par with their juniors and pass appropriate orders within a period of two months from the date of receipt of the copy of this order.**”*

8. There are cases of precedence, wherein similar circumstances the government had considered the request of certain employees of Secretariat, who worked in CT department for considerable period, and were promoted to higher cadres, without raising any issue about the lien, as is being done in this case. Such cases are as follows:

1. Sri K.Prasad, ASO was appointed by transfer as ACTO, along with some other ASOs, in proceedings of Commissioner(CT) in reference DX4/858/99, dt.7.7.2000, and was appointed on a temporary basis, by transfer, on promotion as Section Officer in O.O.Ms.NO.154, G.A(SU.I)Dept., dt.2.5.2006. no issues of lien was raised even though Sri K.Prasad worked as ACTO for a period of almost 6 years.
2. In G.O.Rt.NO.5677, G.A(SC.F)Dept., dt.27.9.2008, Sri A.Rama Chandra Rao, PS, who worked with CT Department from 16.6.2003 as CTO, was promoted as Assistant Secretary to Govt., after a period of almost 5 years.

9. It can also be seen from the file that, one of the main objection is that the services of these 4 employees has not been regularized and they have not been confirmed. Rule 21 of A.P. State and Subordinate Services Rule, 1996, deals with confirmation of a Member of Service and it provides that “as soon as a person appointed initially, in a service or class of service, is declared to have satisfactorily completed his probation or deemed to have satisfactorily completed his probation, he shall be confirmed as a Member of Service, by the appointed authority.” Seniority of such persons is to be governed in terms of Rule 33 of A.P.State and Subordinate Services Rule, 1996.

10. It is seen from the papers available that their probation has also been declared by the Government, on various dates as shown in the table on page-1.

11. In this case, these 4 individuals had been appointed on 11.9.1989, 13.11.1990, 13.11.1990 and 13.11.1990, and were appointed by transfer as Junior Assistant/Typists in Commercial Tax department on various dates in the year 1994. Therefore, these 4 employees, in terms of Rule 21 of A.P.State and Subordinate Services Rule, 1996, as explained above are to be treated as employees whose services are confirmed.

(p.t.o)

12. In view of the above direction of APAT dt.4.12.2013, the precedence cases and applicability of Rule 21 of A.P. State and Subordinate Services Rule, 1996, the direction of APAT is implemented and it is further ordered that Commissioner(CT), shall repatriate these 4 employees to the Special Chief Secretary to Govt., G.A(Ser)Dept., which in turn will fix their seniority in terms of Rule 33 of A.P. State and Subordinate Services Rule, 1996.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

S.K. SINHA,
DG, Dr.MCR HRD Institute of AP & E.O. Spl. Chief Secretary to Govt.,
& PRINCIPAL SECRETARY TO GOVT., (SER. & HRM)(FAC).

To
Sri S.Giridhar,
Sr.Assistant, O/o Commissioner of Commercial Taxes
M.J.Road, Nampally, Hyderabad.
Sri Sk.Mahaboob Basha,
Sr.Assistant, O/o Commissioner of Commercial Taxes
M.J.Road, Nampally, Hyderabad.
Sri S.A.Rasheed,
Sr.Assistant, O/o Commissioner of Commercial Taxes
M.J.Road, Nampally, Hyderabad.
Sri P.Srinivasa Rao,
Sr.Assistant, O/o Commissioner of Commercial Taxes
M.J.Road, Nampally, Hyderabad.
The Commissioner, Commercial Taxes,A.P., Hyderabad.

// FORWARDED :: BY ORDER //

SECTION OFFICER